

REMARKS

Claims 1-32 were pending and presented for examination and in this application. Claims 1-21 are allowed. Claims 21-22, 24-26, 28-30 and 32 are amended. Claims 23, 27 and 31 are canceled. Claims 33-35 are new.

On April 29, 2009, the Examiner and Applicants' representatives (Fengling Li, Reg. No. 62,962 and Daniel Brownstone, Reg. No. 46,581) had a telephone conversation during which they discussed the rejection of claim 21 under 35 U.S.C. § 103(a) and § 251 and proposed claim amendments. During the call, the Examiner agreed that the claim amendments would overcome the rejections under 35 U.S.C. § 103(a) and § 251.

Claims 21-22, 24-26, 28-30 and 32 are amended to comply with 37 CFR 1.173(b). Specifically, claims 21-22, 24-26, 28-30 and 32 are underlined in their entirety with proper claim status identifiers.

The Examiner rejected claims 25-28 under 35 USC § 112, ¶ 2 as not specifically pointing out and distinctly claiming the subject matter that the Applicant regards as the invention. Claim 27 is canceled. The rejection to claim 27 is now moot. Claims 25-26 and 28 are amended to recite a computer processor configured to perform the operations recited in the claims. Further, claims 26 and 28 are amended to depend from the method of claim 25.

The Examiner rejected claims 21-32 under USC § 251 as being an improper recapture of a broadened claimed subject matter surrendered in the application for the patent upon which the

present reissue is based. Independent claims 21, 25 and 29 are amended to recite an interrupt handler, and the rejection of claims 21-32 under USC § 251 should be withdrawn.

The Examiner rejected claims 21-32 under the judicially created doctrine of obviousness-type of double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 5,935,259. Accordingly a terminal disclaimer is being filed terminally disclaiming the terminal part of the term of U.S. Patent No. 5,935,259.

The Examiner rejected claims 21-32 under 35 USC § 103(a) as unpatentable over Yamada (U.S. 5,079,585) in view of Byers (U.S. 5,664,089).

The claimed invention relates to preventing damage to media files within a digital image capture device. As amended, claim 21 recites (with emphasis added):

A computer system for preventing damage to media files within a digital image capture device, comprising:

a power supply connected to a main battery and a backup battery in the digital image capture device;

a sensor for detecting a power loss in the main battery;

an interrupt handler for responsively incrementing a powerfail counter for incrementally recording the number of instances of power loss following the detected power loss; and

a processor coupled to the sensor for performing memory access operations, responsive to determining that the sensor detected a power loss during the memory access operation, the processor configured to **repeat a memory access operation** using power from the backup battery.

The claimed system comprises a power supply connected to a main battery and a backup battery (4:50-57 and FIG. 3). In response to a detection of a power loss in the main battery during a memory access operation, a processor repeats the memory access operation using power from the backup battery (2:15-27 and 4:66-5:6). Thus, the claimed invention enables prevention of damage to the media files within the digital image capture device.

The cited references, considered individually or in combination, do not disclose or teach the claimed features. Specifically, Yamada does not disclose or teach a power supply connected to a main battery and a backup battery, as claimed. Yamada stores data describing current film number of the camera (Abstract). Contrary to using a backup battery as claimed, Yamada's data storing unit "eliminates the need of ... a backup power source" (2:28-31 and 3:4-7). Further, as admitted by the Examiner, Yamada does not disclose or teach repeating a memory access operation as claimed.

Byers does not remedy the deficiencies associated with Yamada. Byers discloses multiple independent power domains (Abstract). Two power domains maintain redundant data in their respective memories. In response to a power domain's voltage being degenerating, Byers disables further reads and writes to the faulty power domain and allows continued operation with the redundant circuitry in the operational power domain (3:34-40).

The Examiner cited column 3, lines 66-68 of Byers as disclosing repeating a memory access operation as claimed. However, this portion of Byers merely discloses a continual operation using the redundant circuitry from an operational power domain, and a continual operation operates from the point of a failure, which is not equivalent to a repeat memory access operation of a failed memory access operation, as claimed.

The Examiner also cited Yamada's column 4, lines 5-43 with Byers' redundant circuitry as disclosing repeating a memory access operation as claimed. However, this portion of Yamada merely discloses operations of three switches (i.e., SW1, SW2 and SW3), and none of the operations of these switches discloses repeating a memory access operation in response to a power failure. Similarly, the combination of Yamada and Byers as suggested by the Examiner also fails to disclose the claimed feature.

Thus, Yamada and Byers references, considered alone or in combination, fail to disclose or teach the claimed features. Therefore, claim 21 is patentable over the cited references.

Independent claims 25 and 29 recite similar language as claim 21. Thus, claims 25 and 29 are patentable over the cited references for at least the same reasons. Dependent claims 22, 24, 26, 28, 30 and 32 depend from their respective base claims. These dependent claims also recite their own additional patentable features. Thus, Applicant submits that claims 22, 24, 26, 28, 30 and 32 are patentably distinguishable over the cited references.

New claims 34-36 recite a flywheel capacitor connected to the main battery and the flywheel capacitor temporarily maintains the voltage from the main battery in response to undetected power failure in the main battery, such as sudden failure of the main battery. Support for new claims can be found at 5:7-13 and throughout the entire specification.

If the Examiner is in need to further information, he is invited to contact the undersigned attorney at the telephone number provided below.

Respectfully submitted,
ERIC C. ANDERSON

Dated: May 13, 2009

By: /Fengling Li/
Fengling Li, Reg. No. 62,962
Patent Agent
Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
Tel. (650) 335-7182
Fax (650) 938-5200